

REMARKS

Reconsideration of the application is respectfully requested.

Claims 1, 2, 8, 9, 11, 12, 14-16, 22-24, 28 and 31-34 are in the application. Claims 3-7, 10, 13, 17-21, 25-27, and 29-30 are presently withdrawn in view of a previous election. Through this amendment, claims 1 and 15 have been amended. New claims 33 and 34, which depend respectively from claims 1 and 15, have been added.

In the Official Action, the Examiner rejected claims 1, 2, 8, 9, 11, 12, 14-16, 22-24, 28, 31 and 32 under 35 U.S.C. §102(b) as being allegedly anticipated by Grabner, Jr. (U.S. Patent No. 5,634,496). The Examiner asserted that "Grabner, Jr discloses is [sic] Figure 5 a tip cap (70) for a syringe (20)".

Grabner, Jr. is directed to a collapsible tube 20, best shown in Figs. 1 and 2. A twist-on cap 55 is provided for the tube 20. The cap 55 includes a cylindrical member 70. (Col. 4, ll. 52-57). As shown in Fig. 6, the cylindrical member 70 has a circular cross-section. As set forth at Col. 4, ll. 62-64, the cylindrical member 70 "can be deformed by finger pressure". During use, a user applies a squeezing force to the cap 55 to deform the cylindrical member 70 as shown in Figs. 7 and 8. (Col. 5, ll. 11-16). The cylindrical member 70 is resilient to return to its initial shape upon removal of the force. (Col. 5, ll. 18-19). There is absolutely no disclosure or suggestion in Grabner, Jr. of a syringe or of a tip cap for a syringe.

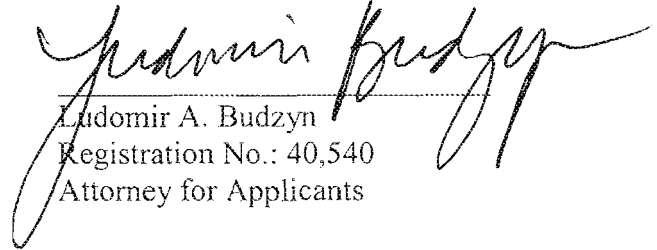
Claims 1 and 15 are the only pending independent claims in the application. Both claims 1 and 15 have been amended to include "a top wall extending from said upper surface and self-maintained in having a substantially non-circular cross-section in an unstressed condition when viewed at an angle substantially perpendicular to said upper surface". In contrast to amended claims 1 and 15, the cylindrical member 70 of Grabner, Jr. is only provided with a non-circular cross-section in a stressed condition, not an unstressed condition. As set forth above, the non-circular cross-section shown in Fig. 8 of Grabner, Jr. is only achieved by a user when inwardly deforming the cylindrical member 70. With force removed, the cylindrical member 70 returns to its circular cross-section as shown in Fig. 6. There is no disclosure or suggestion in Grabner, Jr. to provide a non-circular cross-section in a self-maintained unstressed condition. It is respectfully submitted that claims 1 and 15, along with dependent claims 2, 8, 9, 11, 12, 14, 16, 22-24, 28, and 31-34, are patentable over Grabner, Jr.

In addition, it is noted that new claims 33 and 34 have been added which depend respectively from claims 1 and 15. Both claims 33 and 34 include the limitation that the "syringe is a medical syringe." Grabner, Jr. is clearly directed to a collapsible tube and there is absolutely no disclosure or suggestion in Grabner, Jr. of using the cap 55 in connection with a medical syringe. It is respectfully submitted that claims 33 and 34 provide additional bases of patentability beyond that discussed above.

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Favorable action is earnestly solicited. If there are any questions, or if additional information is required, the Examiner is respectfully requested to contact Applicants' attorney at the number listed below.

Respectfully submitted,



Ludomir A. Budzyn
Registration No.: 40,540
Attorney for Applicants

HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, New York 11791
(973) 331-1700